

Filed: June 29, 2007
Staff: Kristen Martin
Staff Report: July 11, 2007
Commission Hearing Date: July 18, 2007
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO.: 2007-05

APPLICANT(S): Dan and Dorothy Cox

AGENT: N/A

PROPERTY OWNER: Dan and Dorothy Cox

PROJECT LOCATION: 436 Ocean Avenue

PROJECT DESCRIPTION: Use Permit and Coastal Development Permit to remove two large (>12" DBH) Western red cedar trees from the property that have been damaged during storms and which pose a potential hazard to adjacent structures.

ASSESSOR'S PARCEL NUMBER: 042-061-07

ZONING: UR – Urban Residential

GENERAL PLAN DESIGNATION: UR – Urban Residential

ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project is **X** is not appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The project site is located on the west side of Ocean Avenue and is developed with a house and garage. The two trees, which are 30-40 feet tall, are located on the northwestern fence line in the backyard of the property. The project parcel is surrounded by residential development on all sides.

STAFF COMMENTS:

The applicants have submitted photos of the trees as well as a project description that states the specific reasons for this tree removal request. The applicants have stated that the trees sustain broken limbs during even minor windstorms. They are concerned that fallen tree limbs or trunks could cause damage to their garage or house, or to their neighbor's garage immediately to the north. Their proposal is to top and prune back the trees prior to approval of this use permit, leaving them in a viable condition, then remove them completely upon permit approval. For similar projects in the past, the City Engineer has commented that care should be taken to avoid above- and below-ground utilities during tree and/or stump removal activities. The same is true for the OWTS (onsite wastewater treatment system), particularly the leachfield. A building permit will not be required for this project, but an encroachment permit may be necessary if tree removal activities or equipment will require the use of any public right-of-way. The applicants propose to use the services of a licensed tree-removal business.

Tree removal, especially when posing a potential hazard to people and structures, is allowed under City ordinances. However, the City has recently adopted a Views and Vegetation Ordinance that encourages trimming and thinning before complete removal of trees. Staff generally recommends that alternatives to removal be considered. These trees are a native species that provide wildlife habitat and could be considered a valuable aesthetic resource of the community. The applicants' purpose could be served by trimming the trees as planned, but this may alter the aesthetic qualities of the trees in such a way that their full removal would not be objectionable. Additionally, the trees are not of historical significance to the community. As seen in the submitted photos, they are located very close to buildings on the applicants' property and the neighboring property. Broken limbs or trunks would have the potential to cause significant damage to these buildings and to people, especially when falling from great heights. Trimming and thinning could reduce this hazard but would not eliminate it.

ZONING ORDINANCE/GENERAL PLAN CONSISTENCY:

The property where the project is located is zoned UR – Urban Residential. The purpose of this zone is to allow relatively dense residential development; single-family residences are a principally permitted use. Removal of trees over 12" diameter at breast height (DBH) requires a use permit (§ 17.32.030). Section 17.32.080 allows the removal of diseased trees, or trees posing an imminent danger to structures or people subject to the approval of the City Engineer. Trees may also be removed from an approved building site, subject to the approval of the Building Official. Also, small trees and brush may be removed to improve views. Although the trees proposed to be removed pose a

potential hazard to people and structures, they are not an “imminent” hazard and therefore the applicants have applied for a Conditional Use Permit.

The minimum lot size allowed in the UR zone is 8,000 s.f. (§ 17.32.040) and the maximum density is one dwelling per 8,000 s.f. (§ 17.32.050). The lot on which the trees are located is developed with a single-family residence. No buildings or major site improvements are proposed other than the tree removal.

The Urban Residential zone (§ 17.36.050) requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). The maximum height allowed in the UR zone, by Zoning Ordinance § 17.36.06 (average ground level elevation covered by the structure to the highest point of the roof), is 25 feet, except that the Commission may require a lesser height in order to protect views. The Zoning Ordinance (§ 17.56.180) requires 2 off-street parking spaces other than any garage spaces. This project involves no structures and will not affect setbacks, heights, parking or square footages of structures.

The Trinidad General Plan and Zoning Ordinance protect importance public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Removal of trees does not have the potential to negatively impact coastal views and may actually improve them.

Some grading may be required if the tree stumps are to be removed; however, this would be minimal. This property is already connected to all services and utilities. Exterior colors and materials are not applicable. Care must be taken to protect utilities and OWTS components located adjacent to the trees.

SLOPE STABILITY:

The property where the proposed project is located is outside of any areas designated as unstable or questionable based on Plate 3 of the Trinidad General Plan.

SEWAGE DISPOSAL:

There is no sewage disposal associated with this project. The applicants should ensure that tree removal does not impact the OWTS and that the leachfield area is protected from heavy equipment traffic; this has been made a condition of approval.

LANDSCAPING AND FENCING:

The proposed tree removal is part of a backyard landscaping project that the applicants plan to undertake this summer. As stated under Section 7.12 of the Zoning Ordinance, a Coastal Development Permit is not required for any landscaping more than 100 feet from a perennial stream that will not change the existing elevation by more than 2 feet at any point. Only the tree removal requires a permit.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone, a Coastal Development Permit for "major vegetation removal" is required. However, because the project will not alter any structures, and will not change the topography of the site by more than 2 feet, no design review is required.

USE PERMIT FINDINGS:

Section 17.32.030 of the Zoning Ordinance allows removal of trees over 12" DBH (diameter at breast height) with a use permit. Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings, as may be revised, are required in order to approve this project.

- A. *The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.* Response: The proposed project includes the removal of two large Western red cedar trees from a residentially zoned property. The trees pose potential hazards to this and neighboring properties, so their removal may be considered necessary and desirable for the neighborhood. There has been recent community support for the idea of improving viewsheds by removing and trimming trees and hedges. Removal of these trees is not expected to have any impact on coastal views.
- B. *Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:*
 - 1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;* Response: The size and nature of the trees are such that they currently pose a hazard and nuisance to the property and existing structures and pedestrians. Removal of the trees will benefit surrounding properties by removing the potential hazards.
 - 2. *The accessibility of the traffic patterns for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;* Response: The proposed tree removal will not affect traffic or parking. An encroachment permit will be required during tree removal activities which require use of a public right-of-way.
 - 3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;* Response: The proposed project will not involve any emissions.

4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;* Response: Tree removal will not affect or require any of the listed items.
- C. *That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.* Response: As discussed above, under the "Zoning Ordinance / General Plan Consistency section, the proposed development can be found to be consistent with the City's Zoning Ordinance, General Plan and Local Coastal Program.
- D. *That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.* Response: Removal of individual trees is exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation except in the case of officially designated scenic trees or trees within an officially designated state scenic highway, which these trees are not.
- E. *When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:* Response: The project is not located between the sea and the first public road, therefore the following findings are **not** applicable.
 1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.*
 2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.*
 3. *The development is compatible with the established physical scale of the area.*
 4. *The development does not significantly alter existing natural landforms.*
 5. *The development complies with shoreline erosion and geologic setback requirements.*

STAFF RECOMMENDATION:

Based on the above analysis, the proposed project can be found to be consistent with City regulations and the required Use Permit Findings can be made. Provisions of the

Zoning Ordinance and General Plan can be met. If the Planning Commission agrees with staff's analysis, the proposed motion might be similar to the following:

Based on the information submitted in the application, and included in the staff report and public testimony, I move to adopt the information and findings in this staff report and recommend approval of the project as conditioned below.

PLANNING COMMISSION ALTERNATIVES:

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

- A. Alter the proposed conditions of approval to address any specific concerns on the part of the Commission or the public.
- B. Delay action / continue the hearing to obtain further information.
 - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.
- C. Denial of the project.
 - The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

CONDITIONS OF APPROVAL:

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk to place receipt in conditions compliance folder prior to authorization of tree removal or encroachment permit being issued.*
2. Based on the findings that community values may change in a year's time, approval of this Use Permit is for a one-year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk to verify prior to tree removal approval or encroachment permit being issued.*
3. Tree removal activities are to occur in a manner that incorporates storm water runoff and erosion control measures in order to account for water quality considerations near the bluffs. Specific water quality goals include, but are not limited to:
 - a. Limiting sediment loss resulting from construction
 - b. Limiting the extent and duration of land disturbing activities
 - c. Replacing vegetation as soon as possible
 - d. Maintaining natural drainage conditions*Responsibility: Applicant to ensure at time of project completion.*

4. The applicant shall assure that tree removal activities, including heavy equipment operation, do not impact the integrity of the septic system. The leachfield area shall be staked and flagged to keep equipment off the area. Alternatively, a written description of techniques/timing to be utilized to protect the system will be required from the contractor. If the existing system area is impacted by construction activities, an immediate Stop-Work Order will be placed on the project. The contractor will be required to file a mitigation report for approval by the City and County Health Department prior to permitting additional work to occur. *Responsibility: City Clerk to verify prior to tree removal approval or encroachment permit being issued.*
5. The applicant will need to obtain an encroachment permit for any work that takes place within, or hinders access to, a public right-of-way. *Responsibility: City Clerk to verify prior to tree removal.*